Communication of findings of the Special Team to the drug companies

*242. SHRIMATI SATYA BAHIN:†
SHRI H. HANUMANTHAPPA:

Will the Minister of PETROLEUM AND CHEMICALS be pleased to state:

(a) whether it is a fact that his Ministry did not communicate the findings of Special Team appointed to calculate the unintended benefits recoverable from the drug companies to the companies concerned;

(b) if so, what are the circumstances and the reasons for which Government failed to communicate the findings even after a lapse of three years;

(c) what are the names of such companies to which the findings have not been communicated;

(d) whether it is a fact that his Ministry is facing hindrances in making recoveries; and

(e) if so, what are the main hindrances and what is the progress of recovery and what steps have been taken to expedite the same?

THE MINISTER OF PETROLEUM AND CHEMICALS (SHRI M. S. GURUPADASWAMY): (a) to (e) A statement is laid on the Table of the Rajya Sabha.

Statement

(a) and (b) The Special Team was appointed to assess the liabilities of the companies involved in the Supreme Court case. Findings of the team in regard to tentative liability upto 1983 were communicated to each of the eight companies involved in the said case and the information in this regard has been given in reply to a number of Parliament Questions in the past. Before the findings of the team in respect of the remaining four companies could be communicated to them a number of representations were received alleging anomalies and discrepancies in the findings of the team. It was, therefore, decided to have a fresh look into the findings of the team in respect of all the companies involved in the Supreme Court Case.

(c) The four companies to whom findings of the Special Team were not communicated are M/s. Anil Starch Products Ltd., M/s. S. G. Pharmaceuticals, M/s. Tamilnadu Dadha Pharmaceuticals and M/s. Merind Ltd. Tentative liabilities as assessed after scrutiny have now been communicated to them as well as other companies.

(d) and (e) Non-furnishing of complete details by the companies has been coming in the way of finalisation of their liabilities. For furnishing details they have taken extension of time. During the current year, a sum of about Rs. 88 lakhs has been received from the varius campanies including one of them involved in the Supreme Court case. The issue of recovery is, however, being pursued in accordance with the provisions of Drugs (Price Control) Order, 1979 and the judgement of the Supreme Court.

श्रीमती सत्या बहिन : उपसभापति महोदया, मैं जानना चाहती हूं कि जयसुख लाल हाथी के अध्यक्षता में जो कमेटी बनी थी, उस कमेटी की सिफारिशों के निष्कर्ष के आधार पर बहुराष्ट्रीय दवा कम्पनियों ने जो जनता से दवाओं की कीमत के रूप में ज्यादा वसूल किया था, यह जो अनैतिक लाभ इन कम्पनियों ने जनता से कमाया है, उसको वापस लेने के लिये जयसुख लाल हाथी कमेटी ने रिपोर्ट दी थी। उस कमेटी की रिपोर्ट के खिलाफ ये बहुराष्ट्रीय कम्पनियां अदालत में गई थीं, हाई कोर्ट से लेकर सुप्रीम कोर्ट तक गई थीं । सुप्रीम कोर्ट ने अप्रैल, 1987

†The question was actually asked on the floor of the House by Shrimati Satya Bahin.

मैं इस वसूली को न केवल सही ठहराया था बल्कि 15 सप्ताह का समय दिया था कि सरकार 15 सप्ताह के अन्दर उस पैसे को वसूल करे। मान्यवर, उस वसूली के पैसे का हिसाब लगाने के लिये सरकार ने एक स्पेशल कमेटी गठित की थी। उस कमेटी ने जो असेसमेंट किया था विभिन्न कम्पनियों का, जो बहुत कम था उस पर माननीय सांसदों ने आपत्ति की थी। उस पर मंत्रालय में फिर दुबारा आकलन किया था। मान्यवर, स्पेशल कमेटी ने जो आकलन किया था और मंत्रालय ने जो आकलन किया था, उन दोनों में भारी अन्तर पाया गया। इसी सेशन में, 13 अगस्त को अन-स्टार्ड क्वेश्चन नं 869 की तरफ मंत्री महोदय का ध्यान दिलाना चाहती हूं जिसमें माननीय मंत्री ने ब्यौरा दिया है। उसमें ईक्स्ट पैरीन्ड सायनामिड और फ्लैक्सो लैब का जो भारी अन्तर है, वह करोड़ों रुपये में है। यहां मैं केवल 4 कम्पनियों का ही उदाहरण देना चाहती हूं उसके तौर पर जो ईक्स्ट का है, जो स्पेशल कमेटी ने दिया है वह है 458.10 लाख रुपये... जबकि मंत्रालय ने किया है 3491.5 लाख रुपया और इसी तरह पेरान्ड का है 138.79 लाख रुपया और मंत्रालय द्वारा किया है 781.58 लाख रुपया और सायनामिड कम्पनी का है 389.6 लाख रुपया और मंत्रालय द्वारा किया है 536.91 लाख रुपया और इसी तरह फ्लेक्सो लैब कम्पनी का...

उपसभापति : आप जरा संक्षेप में सवाल पूछिये।

श्री सत्या बहिन : मैं इसके तथ्य बता रही हूं, जो माननीय मंत्री जी ने इसी सदन में दिये थे।

उपसभापति : उन्होंने तो जवाब दिया, उनको याद होगा।

श्रीमती सत्या बहिन : फ्लेक्सो लैब में 3,700 लाख रुपये का स्पेशल कमेटी ने आकलन लगाया था और मंत्रालय ने लगाया 6,636 लाख रुपये।

तो मैं माननीय मंत्री जी से यह जानना चाहती हूं – मेरा पहला क्वेश्चन यह है कि यह कौन से तथ्य, दस्तावेज थे जिस पर इतना भारी अंतर आया है, जो स्पेशल कमेटी को दिये गये थे और कौन से दस्तावेज मंत्रालय को दिये गये थे, जिसमें इतना भारी अन्तर आया?

मेरा दूसरा सवाल इसी से सम्बंधित यह है कि इसके बाद जो...

उपसभापति : यह इनका जवाब दे दें, फिर आप बोलिये। यह जवाब देने दीजिये इनको।

Let him answer. Then you can put your second supplementary.

SHRI M. S. GURUPADASWAMY: Madam Deputy Chairman, I am grateful to the hon. Memebr for having raised this question. It is true that after the judgment of the Supreme Court in respect of a few cases, a special team was constituted on 14th September by the Ministry for the purpose of calculating the overcharged amounts in respect of those companies involved in the Supreme Court cases. Another Committee also was constituted later on May 9th, 1988 to hear the applications from these companies. It is true that the calculations made by the special Committee were on the very low side. There were lots of complaints made by the hon. Members in the past and even now and various organisations also wrote to us that the calculations are wrong and they are very much on the low side. So we had tentative calculations made. After I took over as a Minister, I asked my Ministry to have calculations, to have a review of the whole thing. As a result, we arrived at certain tentative figures. They are also tentative. I say tentative because all the documents, details required for finalising these figures are not forthcoming from these drug companies. Not only from those companies which were involved in the cases but also those companies which are not in-

volved. According to us, nearly 100 companies have to pay money. They are liable. So we have arrived at tentative figures on our own after we received a lot of complaints about the earlier figures. I just give you a few figures for the information of the House. Tentative amount assessed by the special team up to 31-12-83 in respect of Pfizer Limited was Rs. 48.21 lakhs. Tentative amount assessed upto 31-12-83 after review, that is our review, was more. In respect of M/s John Wyeth India Ltd. it was Rs. 133.45 lakhs in the first category. Then it has been revised to Rs. 173.02 lakhs. In respect of Ethnor Ltd. it was Rs. 8.15 lakhs earlier. It was revised to Rs. 10.19 lakhs. These revisions have been done. Even these revisions are tentative because all the details have not been made available to us. Therefore, it is true and I agree with the hon. Member. We are at this exercise and we have already issued notices to these companies on the basis of the figures.

श्रीमती सत्या बहिन : महोदया, मैं समझती हूं कि यह इतना बड़ा घोटाले का समुद्र है कि इसमें बोफोर्स जैसे दर्जनों घोटाले समा जायेंगे। जिस बोफोर्स के पीछे सरकार डेढ़ साल से पड़ी हुई है, वैसे दर्जनों घोटाले इस घोटाले के अन्दर समा जायेंगे । यह जो आंकड़े दिये हैं, मैं समझती हूं कि ये 1981 से 83 तक के हैं और कुछ कम्पनियों के हैं । इसमें डेढ़ सौ कम्पनियों के लगभग 1 हजार करोड़ रुपये मेरे ख्याल से इस में आयेंगे। माननीय, मैं यह पूछना चाहती हूं कि 1983 से 87 तक के रुपये की वसूली के लिये सरकार कितनी पीढ़ियों का समय लगायेगी । साथ ही, यह भी जानना चाहती हूं कि इन दवा कम्पनियों ने कौन सी ऐसी दवा बनाकर सरकार को खिला दी है कि जिससे सरकार की नींद इन कम्पनियों के घोटाले की तरफ नहीं टूट रही है।

SHRI M. S. GURUPADASWAMY: These insinuations are not warranted at all. May I ask the hon. Member what was her Government doing all these years? Tell me that. I don't want to go into that question now.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Madam, I take strong exception to this. It is not fair at all.

SHRI M. S. GURUPADASWAMY: I said I don't want to go into that.

SHRI RAJNI RANJAN SAHU: Madam, it is not the question of this Government or that Government, after all a Government is a Government.

SHRI M. S. GRUPADASWAMY: Yes, I agree with you. Government is Government. That is why I am not going into the question at all.

I said incidentally in my reply to her supplementary that according to us nearly 100 companies are involved. They owe money to the Government Out of 100 companies or firms, fifty owed nearly Rs. 135.13 crores.

THE DEPUTY CHAIRMAN: Since how long? Perhaps that is what she wants to know.

SHRI M. S. GURUPADASWAMY: This is the arrear due to the Government between 1979 and 1983. That is the period. In respect of the balance fifty companies, another Rs. 40 crores are due. On a rough estimate nearly Rs. 175 crores are due. Notices have been issued to all these companies and details have been called. They wanted some extension of time. Time also has been given. First three weeks and later on one month's time has been given. We will take action after we receive all these details.

SHRI VIREN J. SHAH: In the beginning of this month and during the later half of last month a large number of advertisements appeared in almost all newspapers wherein all sections of drug manufacturers from small-scale to medium scale, indigenous, IDMA, all of them had joined

hands about the various problems. They were going to Gherao or hold a rally on 7th of August at New Delhi but they met the hon. Minister and that was dropped. But the advertisement mentioned. (a) The interpretation of the Supreme Court Judgment is different and they have a case. This is according to what they have stated in the newspaper advertisements. (b) As per that they have a claim from the Government rather than paying to the Government. This is going on for the last more than four and a half years. Now, should it take the Government such a long time to verify and find out what is what and come to a specific conclusion? If the money is due to the Government, then the money should come to the Treasury when every penny counts right now. If it is not due, to the extent it is claimed this matter is to be resolved and sorted out. Why is it that it is not done? If there is any truth in what the adverisements have said, then they should not be denied their claim. Why should it take such a long time from 1983 till 1990?

SHRI M. S. GURUPADASWAMY: Madam, it is true that various organisations have met me and different organisations have different viewpoints. Consumer organisaions have met me, representatives of pharmacists have met me and the representatives of drug industries have met me. With a view to have consensus, I called a joint meeting of all these organisations together for interacion. That was also done. Later some sections were not satisfied. Then they decided to go on strike and they met me again ...*(Interruptions)*. I told them that they are indulging in disinformation unfounded information. I clarified the stand of the Government in regard to the vital issues. Price is not only the issue of the drug industry, lest me tell you. Price is only one among many things. I clarified my positon and I have said that the Government has got an open mind. But we must convinced and I know that different quarters are saying now that the Minister is wilting under pressure applied by the drug industry. I am not at all wilting under anybody's pressure, let me tell you, let me assure my colleague. You know me very well. I never wilt under pressure. I will tell the same thing to any pressure groups which operate.

Regarding the other question how long we will take to settle and whether set-offs have been claimed by the drug industry. I have asked the drug industries to show me the law which gives me competence, which gives me the power to allow set-offs. Till today I have yet to receive their replies. According to my understanding, the law does not give me power. I have no competence to give the set-offs. Set-offs are not thought of at all. So they owe some money to the Government. Under the DPCO, we have issued notices to them and they should come out with full information.

SHRI VIREN J. SHAH: Why should you take six years to get the money which the Government needs, if it is due to the Government?

SHRI M. S. GURUPADASWAMY: I agree there is delay. I don't deny that. there is considerable delay. It is very true. I want to expedite it. I will promise the House, I will try my best to collect these arrears as early as possible. If they do not pay money, law will take its own course.

SHRI RAJNI RANJAN SAHU: Madam Deputy Chairman, it is a very important question. I would like to submit that first of all you should not ask me to make hurry for my supplementary.

THE DEPUTY CHAIRMAN: Everybody wants to make hurry to get the money back.

SHRI RAJNI RANJAN SAHU: It is a very important quesion. First of all I would like to extend my heartiest thanks to the hon. Minister who has assured the House that he is not going to yield to any pressure. My

hon. colleague, Mr. Shah has raised an issue that the manufacturers of the drugs interpret that there is a confusion in the judgement of the Supreme Court. I would like to make it clear before the House and I would like to read one or two lines from the judgement of the Supreme Court which is quite celar and is absolutely not a vague judgement. They made the following observations and I quote:

> "It appears to justify the charges that some manufacturers do indulge in profiteering. Profiteering by itself is evil. Profiteering in the scarce resources of the community, much needed life-sustaining foodstuffs and life savings drugs is diabolical." The court also gave a direction for the time-bound recovery.

That was the judgement and the court allowed 15 weeks to recover the amount. And now it is more than two and a half years. The House will remember that some time back I raised this issue and pointed out that more than Rs. 500 crores are due from the multi-national drug companies. At that time, my hon. colleague Shri Kulkarniji also intervened and raised a point of order stating that it should be clarified first as to whether it is Rs. 100 crores or Rs. 500 crores. This is a continuing process. The question is related to the poor consumer. The unintended profit, the amount charged over and above the Price fixed, is recoverable and the amount so recovered will be utilised for the consumer. It is utilised for the consumer. A considerable delay has taken place as accepted by the Minister himself. They have taken seven years in the court. When the decision was announced some time in 1979, the drug manufacturers went to the High Court and the Supreme Court that litigation took seven years. There, a stay was granted on the condition that the amount charged, the uninteded benefit, would be paid by them as soon as the final judgment was passed and the final judgment was given some time in April or November 1987. Till now nothing has been done. Now the 15 weeks' time has lapsed. I would like to know from the hon. Minister what action he has taken. Firstly, has he gone to the Supreme Court for contempt of court? Secondly, does he propose to appoint another high-power committee including Members of Parliament? I assure him that this Rs. 500 crores is recoverable within 15 weeks. I hold that the judgment of the Supreme Court was based on some rationality. The time of 15 weeks should be enough. I would like an assurance from the hon. Minister that he will do it. If he is unable to do it, I will assist him. Will he give an assurance that he will recover this Rs. 500 crores within 15 weeks?

SHRI M. S. GURUPADASWAMY: I value the suggestions of my friend Shri Rajni Ranjan Sahu who is a very knowledgeable person in this pharmaceutical field. Sometimes he meets me and discusses with me various problem. I have been benefited by his discussions with me. Regarding the question of arrears, it is true that there is considerable delay. I admit and I owe an apology to the House on behalf of the Government. There has been a delay. Any further delay should not be there. Therefore I said all expeditous steps would be taken in future to see that the arrears are recovered from these companies. If they do not pay up their arrears, I said, law would take its own course. I stand by that. Regarding the figures he has given, I do not want to enter into a battle of figures.

THE DEPUTY CHAIRMAN: He is mentioning about the law itself. The law has taken its own course. He is now offering his services.

SHRI RAJNI RANJAN SAHU: If you do not have anybody to cooperate with you, I am here to cooperate with you. The figure that I have quoted of Rs. 500 crores (approx.) are mentioned in the balance-sheet of all the multi-national companies.

THE DEPUTY CHAIRMAN: No. No need to repeat. He knows it.

SHRI M. S. GURUPADASWAMY: I do not want to enter into the battle of figures. That is what I said. I am not disputing.

SHRI RAJNI RANJAN SAHU: You have already issued notices for Rs. 300 crores.

SHRI M. S. GURUPADASWAMY: I am not entering into the battle of figures. If we collect more, I will be the happiest person because the Government needs more money nowa days. I value your cooperation. You have been very cooperative and I congratulate you on that. May I say that all the issues that he has raised will be looked into and I will try to be alert, vigilant, and take all his advice and all the suggestions he has made now?

SHRI RAJNI RANJAN SAHU: Madam, I seek your protection. I have asked one question. They have violated the direction of the Supreme Court and they have not paid the money within the 15 weeks' time. When the Govt. have gone to the Supreme Court and have appealed for violating the orders. What action has been taken? Secondly, the manufacturers have gone to the Supreme Court again for stay of previous order. They are again going in for a legal battle. I warn the Govt. that Govt. should be more alert.

SHRI M. S. GURUPADASWAMY: Madam, they are going to the Supreme Court, but I am thinking of collecting the monies form these companies and let me see whether we have to go to the Supreme Court after some time.

श्री जगदीश प्रसाद माथुर : महोदया, मंत्री जी से मैं यह पूछना चाहूंगा कि क्या उन्हें मालूम हैं कि बहुत सी कम्पनियां यह करती हैं कि बाहर से किसी दवा के लिए कोई चीज मंगाती हैं उसको ओवर इन्वायस करती हैं, उनका पैसा वहां जमा होता है और यहां पर कीमतें बढ़वा लेती हैं। पैसे वहां भी जमा होते हैं यहां भी पैसा कमाते हैं। क्या मंत्री महोदय इसकी इन्क्वायरी करेंगे क्योंकि उनका विदेश में इन्वायस क्या है ? क्या और यहां पर कितनी कीमतें बढ़ायी गई हैं ? क्या उन्हें अब तक पैमेंट किया है ? इसको देखना बहुत सरल है। क्या इसकी जानकारी है कि यह धंधा चल रहा है और मैं केवल इशारे में कह रहा हूं कि उसमें आपके भी कई विभाग के लोग सम्मिलित हैं। इन फिगर्स को लेना बहुत सरल है कि वहां कितना दिया गया है, यहां कितना दिया है, कीमतें कितनी बढ़वायी हैं ? क्या इसकी इन्क्वायरी करेंगे और क्या किसी कम्पनी के खिलाफ इन्क्वायरी हो रही है ?

दूसरा प्वाइंट है कि यह जो इनसे पैसा वसूल होगा या दूसरे तौर से उसका उपयोग क्या करेंगे क्या इस पैसे का उपयोग जो लाइफ सेविंग्स ड्रग्स हैं उसको सब्सडाइज करके उपभोक्ताओं के लिए सस्ता करने की कोई योजना है ?

SHRI M. S. GURUPADASWAMY: Madam, when specific cases are brought to our notice about over invoicing and under invoicing, we refer those cases to the Directorate of Enforcement, Ministry of Finance and we have been very alert all the time. So, let the Member rest assured that I am not lagging behind in taking action in such matters. (*Interruption*)....

SHRI J. P. MATHUR: I cited one special case. This is a general practice. I would request the hon. Minister to enquire into it deeply and widely.

THE DEPUTY CHAIRMAN: He said, he will look into it.

श्री जगदीश प्रसाद माथुर : मैडम, जो महत्वपूर्ण सवाल था कि यह जो वसूली होगी इसको क्या लाइफ ड्रग्स के लिए सब्सडाइज करेंगे ?

उपसभापति : रिकवर तो हो जाये।

श्री जगदीश प्रसाद माथुर : पहले योजना तो बना लीजिए, मिलेगा ही।

DR. G. VIJAYA MOHAN REDDY: Madam, for the drug industry, in spite of all the help they are given, profit is the only motive. They are not able to supply essential drugs at a cheap cost to the people. So also, they are not able to supply drugs to the national health programmes. That is why this profit motive of the drug industry has now become one of the topics of discussion, and in this context multinational companies also owe monies to the Government. It is not only the national companies but the multinational companies also who owe monies in this respect. If the Government takes stringent measures to recover these monies within a time-span, the entire money can be recovered. These defaulting companies must be put in proper order.

SHRI M. S. GURUPADASWAMY: Madam Deputy Chairman, I appreciate the spirit of the supplementary of my friend. In this, both the big companies and the small companies are involved. Big companies are involved in a big amount and the small companies in a small amount. Many companies are involved in it. So it will be my endeavour to see that these arrears are collected as quickly as possible. Regarding profit, let me make it clear that I want the drug industry to make a reasonable profit, not unreasonable profit . I am not against profit at all. They must have a reasonable profit so that they must have investible resources to expand the industry, but they should not exploit the consumers and the public. This is my contention. So I want to protect the consumers. They should have rational formulations, not fancy formulations which are plenty in the market today. I want rational formulations, relevant formulations. Madam, I would like to say that the National Front Government committed in their manifesto that our objective in this sector was to see that abundant drugs should be made available to the people, good quality drugs should be made available to the people, at reasonable prices. we owe it to the consumers, to the people; without them the drug industry will collapse. Therefore, I would appeal to the drug industry to be reasonable and see that the policy of the Government is adhered to so that the drug industry may also prosper, the consumer is protected and the distributor is also protected.

Low Utilisation of Capacity by BHEL

*243. SHRI MAHENDRA PRASAD: †
SHRI MURLIDHAR CHANDRKANT BHANDARE:

Will the Minister of INDUSTRY be pleased to state:

(a) what has been the precentage of capactity utilisation of BHEL during the years 1987-88,-1988-89, 1989—90 and during the current year so far;

(b) what are the main reasons for low utilisation of capacity by BHEL; and

(c) how for this is attributable to the fact that turbines and other heavy electrical equipments that could well be produced at BHEL was imported in the name of modernisation or expediency?

THE MINISTER OF INDUSTRY (SHRI AJIT SINGH): (a) The capacity utilisation of BHEL for power generating equipment during 1987-88, 88-89,89-90 and 90-91 is as under:

	1987-88	1988-89	1989-90	1990-91 (budgetted)
Thermal sets	42%	77%	64%	70%
Boersil	99%	97%	87%	62%
Hydro sets	25%	15%	37%	32%

†The question was actually asked on the floor of the House bq Shri Mahendra Prasad.